



## Bill Draft 2011-RBxz-1: Revenue Laws Technical Bill.

2011-2012 General Assembly

**Committee:** Revenue Laws Study Committee  
**Introduced by:**  
**Analysis of:** 2011-RBxz-1

**Date:** December 1, 2010  
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Committee Counsel

**SUMMARY:** *This proposal includes several technical, administrative, and clarifying changes to the revenue laws and related statutes.*

**EFFECTIVE DATE:** Except as otherwise provided, the proposal would become effective when it becomes law.

### BILL ANALYSIS:

Section	Explanation
1	Repeals an obsolete provision. When the General Assembly enacted the qualified business venture tax credits in 1987, they applied to investments in North Carolina companies and to both corporations and individuals. In 1996, the General Assembly revised the tax credit to apply to all investments because the restriction to North Carolina companies was unconstitutional. In the same act, S.L. 1996-14, ES2, the General Assembly also restricted the tax credit to individuals and pass-through entities. The subsection being repealed is a carry-over from the original law as it applied to holding companies.
2	Provides a definition for development tier one area in the tax credit for research and development. The tax credit amount for research performed in a development tier one area is 3.25%.
3	Repeals an obsolete provision. In S.L. 2010-89, the General Assembly provided an alternative apportionment formula for a corporation that signed a letter of commitment by September 15, 2010, certifying that it planned to invest at least \$500 million in private funds to construct a facility in a development tier one area. No company signed such a letter. The General Assembly enacted the provision at the request of Microsoft; Microsoft announced in August that it would be locating in Virginia.
4	Removes the word "wireline" at the request of the Streamlined Sales Tax Compliance Review and Interpretations Committee. It makes no substantive change in the law.
5	Clarifies that the sales tax exemption for prosthetic devices is for human use and corrects the name of the agency where the Child and Adult Care Food Program is located.
6	Removes geothermal heat pumps from the Energy Star sales tax holiday because consumers are not able to purchase them. Only contractors can purchase geothermal heat pumps and they are not entitled to the exemption. The presence of the item in

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	the list raises many questions and frustrates consumers.
7	<p>Corrects the sunset dates of the sales tax refunds for fuel sold to passenger air carriers and motorsports teams. The General Assembly extended these sunsets from January 1, 2011, to January 1, 2013, in S.L. 2010-31. In a subsequent piece of legislation recommended by the Revenue Laws Study Committee, S.L. 2010-166, these refund provisions were reenacted in a new statute dedicated to economic incentive refunds. The later legislation failed to conform to the extended sunset dates.</p>
8	<p>Includes the two new sales tax refunds for paper from pulp manufacturing and turbine manufacturing in the correct statute. The General Assembly enacted the refunds in S.L. 2010-31. The rewrite of the economic incentive refunds, enacted in S.L. 2010-166, failed to include this conforming change.</p> <p>Gives effect to the sales tax refund for paper from pulp manufacturing by defining the term "owner" to include a lessee in a lease-to-purchase contract. The Department of Commerce requested this change.</p>
9	<p>Removes unnecessary and confusing words. If a datacenter fails to maintain its required levels of investments, it forfeits its incentive and must pay sales tax on its purchases. The statute stated that the sales tax would be calculated "<i>at the combined general rate</i>". The words are not necessary and may not correctly reference the right tax rate since the term "combined general rate" does not include the ¼ ¢ local sales tax applicable in some counties.</p>
10	<p>Clarifies the refund process for the deed stamp tax.</p>
11	<p>Updates the reference to NAICS and places the definition in the statute applicable to most of Chapter 105. NAICS is the North American Industry Classification System adopted by the US Office of Management and Budget. It is updated every five years.</p> <p>Makes a conforming change to the term "information technology and services" to reflect the changes from the 2002 NAICS to the 2007 NAICS.</p>
12	<p>Clarifies that the higher penalty for failure to obtain a license under the motor fuel statutes only applies after the taxpayer has received written notification from the Department of Revenue to obtain the requisite license.</p>
13	<p>Reconciles two current conflicting provisions concerning whether the identity of certain taxpayers is public information. This section also makes conforming changes.</p> <p>The taxpayers affected are those who bring a contested case action at the Office of Administrative Hearings to obtain a review of an assessment or a denial of a refund by the Department of Revenue. Currently, G.S. 150B-31.1(e) states that the record, proceedings, and decision in a contested case are confidential until the final decision is issued. The Secretary of Revenue makes the final decision and, once that decision issued, the records with the taxpayer name is public.</p>

	<p>G.S. 105-256(a)(9) requires the Secretary of Revenue to publish the final decision in a contested case in a format that redacts identifying information. The requirement to redact the identifying information serves no purposes, however, because once the decision is published, the record in the contested case proceeding becomes public in an unredacted form under G.S. 150B-31.1.</p> <p>Subsection (a) reconciles these provisions by amending G.S. 105-269(a)(9) to delete the requirement that the Secretary redact identifying taxpayer information when publishing final decisions. Subsection (b) makes a conforming change to the secrecy statute, G.S. 105-259, to change the word "report" to "publication" to ensure that the final decisions are included within the current exception for reports.</p> <p>G.S. 150B-31.1 and G.S. 105-256(a)(9) were both enacted in 2007 in Senate Bill 242, S.L. 2007-491. Under prior law, the Tax Review Board reviewed administrative decisions of the Secretary and made a decision, called an order, after the review. Orders of the Tax Review Board were published in the North Carolina Register, as required by G.S. 150B-21.17(a)(5), and were not redacted. S.L. 2007-491 revised the procedure for the review of contested tax cases and, as part of the revisions, eliminated the Tax Review Board. Subsection (c) makes a conforming change and repeals the obsolete requirement in G.S. 150B-21.17(a)(5) to publish orders of the Tax Review Board in the North Carolina Register.</p>
14	<p>Modernizes the local sales tax base to conform to the State sales tax base for items taxed at the general rate of tax. This change will remove the need to amend the local sales tax statute whenever an item is added to the State sales tax base and taxed at the general rate of tax. It effectively includes digital products in the local sales tax base, as intended by the General Assembly.</p>
15	<p>Conforms the sunset provisions of miscellaneous provisions associated with the tax credit for recycling oyster shells. The General Assembly extended the sunset on this credit from January 1, 2011, to January 1, 2013, in S.L. 2010-147.</p>
16	<p>Changes the effective date for the exclusion of amenities from general admissions receipts. Prior to February 1, 2009, amenities were excluded from admissions receipts. Effective February 1, 2009, with one day's notice, the Department of Revenue issued a directive providing that amenities would be included in admissions receipts. The Revenue Laws Study Committee recommended, and the General Assembly enacted, a restoration of the prior understanding. The effective date of the legislation was August 1, 2010. Companies that paid the tax with amenities included in the admissions receipts sought a refund of the excess tax paid. The Department denied the refund request because the effective date of the legislative change was August 1, 2010, not February 1, 2009 (the day the directive took effect).</p>
17	<p>Removes the sunset from the provision that allows the Codifier of Statutes to renumber the subdivisions in the special license plates statute in sequential and alphabetical order.</p>

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